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International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to submission of the fifth periodic report of Israel*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Please provide information on measures taken to implement the recommendations contained in the Committee's previous concluding observations (CCPR/C/ISR/CO/4), including any relevant statistical data, and information on the mechanisms in place to review the process of implementation of previous recommendations. Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations, including examples of cases in which the provisions of the Covenant have been referred to by national courts and other law-applying institutions, and training programmes on the application and interpretation of the Covenant for lawyers, judges and prosecutors.

2. With reference to the Committee's previous concluding observations (CCPR/C/ISR/CO/4, para. 5),[1] please clarify:

(a) Whether the State party intends to review its reservation to article 23 of the Covenant with a view to withdrawing it;

(b) What steps the State party has taken to review its legal position so as to acknowledge the extraterritorial application of the Covenant under certain circumstances, as outlined, inter alia, in the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant;

(c) What steps the State party has taken to review its legal position and acknowledge that the applicability of international humanitarian law during an armed conflict, as well as in a situation of occupation, does not preclude the application of the Covenant;

(d) What measures the State party has taken to ratify the Optional Protocol to the International Covenant on Civil and Political Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

3. Please provide information on steps taken to establish a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Please describe how the State party is engaging civil society and other relevant stakeholders in this process in

* Adopted by the Committee at its 123rd session (2–27 July 2018).

[1] Unless otherwise indicated, paragraph numbers in parentheses refer to the Committee's previous concluding observations.

order to ensure that the national human rights institution is established in line with the international standards.

State of emergency and counter-terrorism measures (arts. 4, 9, 14, 17, 19, 21 and 22)

4. Taking into account the previous recommendations of the Committee in its four previous concluding observations (CCPR/C/ISR/CO/4, para. 10; CCPR/C/ISR/CO/3, para. 7; CCPR/CO/78/ISR, para. 12; and CCPR/C/79/Add.93, para. 11), please provide information on the state of emergency in place since 1948, indicating the provisions from which the State party has derogated, and if it intends to revoke the state of emergency. Please provide information on measures taken to comply with the requirement to notify the Secretary-General of the United Nations of any provisions derogated from and the reasons by which the right of derogation was actuated, as well as of the termination of any state of emergency, under article 4 (3) of the Covenant. Please also provide information on measures taken to review the State party's legislation governing the state of emergency, including with regard to the applicable rules governing the renewal of the state of emergency.

5. Please provide information on the new law adopted in March 2018, which allows the Minister of the Interior to revoke the permanent residency status of East Jerusalem residents who are found to have committed actions constituting a "breach of trust" against Israel. Please comment on allegations that the law could make the residency status of Palestinians in East Jerusalem more precarious and further compromise the Palestinian presence in East Jerusalem. Please provide information on measures taken to ensure that definitions of terrorism are precise, are limited to countering terrorism, and are in full conformity with the Covenant.

Non-discrimination and self-determination (arts. 1, 2, 9, 12, 17, 18, 25 and 26)

6. With respect to the Committee's previous concluding observations (para. 7), please provide information on steps taken to ensure the equal treatment, enjoyment and access to human rights for all persons within the territory and subject to its jurisdiction and the effective control of the State party, regardless of their national or ethnic origin. Please also provide information on measures taken to amend its Basic Law: Human Dignity and Liberty 5752-1992 to explicitly incorporate the principle of equality and non-discrimination. Please include information on the recently adopted Basic Law: Israel as the Nation State of the Jewish People, which constitutionally enshrines the identity of Israel as the national home of the Jewish people, and explain how this Law is compatible with the Covenant and the principle of non-discrimination. Please comment on reports that the Jewish and non-Jewish populations are treated differently and enjoy different civil status, rights and legal protection under the law. In particular, please provide information on steps taken to facilitate and ensure that Palestinians married to holders of Jerusalem identity documents and Israeli citizens are able to reunite with their families and are granted equal access to the enjoyment of their rights in accordance with the Covenant.

7. With regard to the Committee's previous recommendations (para. 8), please provide information on measures taken to increase the number of Israeli citizens of Arab and Bedouin origin, particularly women, in the civil service, especially in decision-making positions. Please also provide updated data on the percentage of Arab workers, disaggregated by gender and positions occupied, working in the civil service. Please comment on rules imposed by ultra-Orthodox political parties, namely Yahadut Hatorah and Shas, barring women from appointment as members of, or from being candidates and consequently being elected to, the parliament and municipal and regional councils.

8. With regard to the Committee's previous concluding observations (para. 17), please provide information on:

(a) Measures taken to cease construction and expansion of settlements in the Occupied Palestinian Territory, including East Jerusalem, and all settlement-related activities, including the transfer of the State party's population to that Territory;

(b) Steps taken to refrain from interfering with the ownership and use of Palestinian property, particularly by putting an end to expropriations, confiscations,

requisitions and encroachment in the Occupied Palestinian Territory, including East Jerusalem, and information on available mechanisms to ensure that properties wrongfully expropriated are returned to their owners and that the owners are provided with effective remedies;

(c) The settlements in Elon Moreh and the occupied Syrian Golan, which have greatly expanded in recent years, including on land privately owned by Palestinians, and measures taken to return these properties to their owners and to provide them with effective remedies;

(d) Measures taken to ensure that Palestinians in the Occupied Palestinian Territory, including East Jerusalem, have non-discriminatory access to land, natural resources, water and sanitation;

(e) Measures taken to reroute the wall in accordance with the advisory opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory of 9 July 2004 of the International Court of Justice, including measures to cease the construction of the wall and dismantle those parts of it that have been built inside the Territory, and ensure that Palestinians have full access to their lands and livelihood;

(f) The process allowing for retroactive legalization of settlements outposts.

Violence against women, including sexual and domestic violence (arts. 2, 3, 6, 7, and 26)

9. Please explain the measures adopted to combat physical and sexual violence against women in the State party. Please report on the steps taken to address the problem of underreporting by victims of domestic violence, mainly due to social pressure from families and lack of trust in the police force, which administers and has full control over security. Please describe training programmes provided to law enforcement officers and other relevant public officials on handling cases of violence against women. Please provide statistical information on: (a) the number of complaints received, investigations and prosecutions carried out with regard to violence against women, including domestic violence; (b) sentences handed down to perpetrators and reparation granted to victims; and (c) the availability of shelters for victims of domestic violence.

Right to life (arts. 2, 6 and 24)

10. Please provide information on the bill, already passed in first reading, which provides that terrorists could be sentenced to death by a simple majority of judges only, instead of a unanimous decision, as currently required. Please indicate how the bill ensures an effective system of review and how guarantees of due process are respected. Please provide information on the number of death sentences and executions carried out during the reporting period and which courts are entitled to impose death sentences.

11. Please provide information on the amendment of 7 March 2018 to the antiterrorism law granting the Israeli police the power to withhold the bodies of persons killed by the Israel Defense Forces and setting conditions for the return of the bodies to their families for burial. Please comment on recent decisions of the Supreme Court of Israel in July and December 2017 in which it stated that there was no source of legal authority to allow for the withholding of bodies.

12. Taking into account the Committee's previous concluding observations (para. 6), please provide information on:

(a) Measures taken to continue implementing the recommendations contained in the second report of the Turkel Commission, particularly regarding investigation into alleged violations of the law of armed conflict;

(b) The number and status of complaints, investigations and sentences handed down to perpetrators and reparation granted to victims of alleged violations of international human rights and humanitarian law by members of the Israeli Defense Forces and other law enforcement officers during Operation Cast Lead (2008–2009), Operation Pillar of Defense (2012) and Operation Protective Edge (2014);

(c) The pending decision on the constitutionality of the 26 October 2014 decree, which declared the Gaza Strip "enemy territory", retroactively from 7 July 2014. The decree renders persons who are not citizens or residents of Israel, and are residents of a territory outside Israel that the Government has decreed to be "enemy territory" ineligible for damages.

13. With reference to the Committee's previous concluding observations (para. 13), please provide information on:

(a) Measures taken to prevent the excessive use of force against Palestinians by the Israel Defense Forces during law enforcement operations, particularly adequate protections and safeguards for Palestinian children, inter alia, by ensuring that the rules of engagement and regulations on the use of firearms for the State party's security forces are consistent with article 6 of the Covenant and with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

(b) The rules governing live ammunition employed in the context of law enforcement or other relevant security operations, including information on the chemical components, concentrations and other relevant information relating to the deployment of tear gas, including when used in refugee camps and other densely populated areas;

(c) Whether the State party has launched thorough, effective and independent investigations into all allegations of excessive use of force by law enforcement officers, including private security personnel contracted by the State party's authorities, particularly in the context of demonstrations in both the West Bank, including East Jerusalem, and the Gaza Strip, and steps taken to ensure prosecution and punishment where allegations are proven, as well as effective remedies for victims or their families;

(d) Investigations carried out into the "Great March of Return" protests in 2018 which, according to information received by the Committee, resulted in a total of 91 Palestinians, including 12 children, being killed;

(e) Reports that in 2017, the Israeli navy opened fire on fishermen on at least 213 occasions, killing a 25-year old on 15 May and injuring 14 others, and that during the first quarter of 2018, the Israeli navy opened fire on fishermen at sea on at least 136 occasions, killing 1 and injuring 14 others.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment, liberty and security of person, and treatment of persons deprived of their liberty (arts. 7, 9, 10, 12 and 24)

14. In the light of the Committee's previous concluding observations (para. 14) and the follow-up information provided by the State party (CCPR/C/ISR/CO/4/Add.1), please provide information on:

(a) The drafting process of the bill on the prohibition of torture, indicating whether the current draft incorporates a definition of torture that is in full conformity with article 7 of the Covenant and provides for penalties that are commensurate with the gravity of the acts;

(b) Measures taken to remove "necessity" as a possible justification for the crime of torture and to ensure that no exceptional circumstances may be invoked to justify acts of torture;

(c) Steps taken to ensure that law enforcement officials refrain from inflicting "moderate physical pressure" in cases of "necessity" and to ensure that interrogation techniques never reach the threshold of treatment prohibited under article 7 of the Covenant;

(d) The current legislation providing for audio and video recording of interrogations of persons accused of security-related offences, and whether the procedures governing the security interrogations conducted by the police have been approved, if they are being implemented, including with regard to security-related offences and if such interrogations will also be recorded so as to be available to be used as evidence in courts.

15. In the light of the Committee's previous concluding observations (para. 15), please comment on allegations that during the detention and interrogation of Palestinians, including Palestinian children, the Israeli authorities resort to prolonged interrogation of up to 19 hours at a time, sleep deprivation, prolonged solitary confinement, incommunicado detention, psychological pressure, and various means of physical violence, such as slapping, kicking and strangling. Please provide information on:

(a) Measures taken to eradicate torture and ill-treatment against adult and child detainees, including through the establishment of an independent monitoring mechanism;

(b) Conditions of arrest for Palestinians, including Palestinian children, and steps taken to ensure that arrests are conducted in accordance with the Covenant;

(c) Measures taken to ensure that detention of children, including administrative and pretrial detention, is used as a measure of last resort only;

(d) The rules governing the use of solitary confinement for prisoners, including children and people with mental disabilities;

(e) Steps taken to ensure that all allegations of torture and ill-treatment are promptly and effectively investigated, that perpetrators are held accountable and that victims are provided with effective remedies, including appropriate compensation;

(f) The number of investigations, prosecutions and remedies provided to Palestinians with respect to acts of torture or ill-treatment that occurred during arrest or in detention.

16. Please provide information on administrative detention, particularly in relation to the detention of Palestinians. Please comment on allegations that detainees held in administrative detention may be deprived of basic legal guarantees, including by being held in detention without a charge, and with no information regarding the duration or reason for the detention, which may amount to arbitrary detention. Please provide information on:

(a) The use of secret evidence in administrative detention proceedings;

(b) The practice of holding minors in administrative detention;

(c) The maximum duration of administrative detention, including for children;

(d) The number of persons, including children, currently held in administrative detention;

(e) Access to legal assistance and an independent complaint mechanism for all detainees, including children;

(f) Whether parents or close relatives of children who are detained are promptly informed of the location of the child's detention and whether interrogations of children are conducted in the presence of parents, close relatives or a lawyer.

17. In the light of the Committee's previous concluding observations (para. 16), please provide updated information on measures taken to prevent violence perpetrated by the State party's settlers against the Palestinian population in the West Bank, including East Jerusalem, and to ensure protection for Palestinians when such violence occurs. Please also provide information on steps taken to strengthen the State party's efforts to ensure a prompt, thorough, independent and impartial investigation into all incidents of violence against Palestinians and their property, and to ensure that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and victims are provided with effective remedies. Please comment on allegations that a significant number of settler attacks against Palestinians take place in the presence of Israel security forces, who often fail to take appropriate measures to protect Palestinians, and that Palestinians face various obstacles in filing complaints with the Israeli police due to, inter alia, a lack of trust in the Israeli law enforcement authorities, fear of reprisals, long waiting times to file a complaint and the refusal of police officers to receive complaints.

Freedom of movement (arts. 1, 2, 6, 7, 12 and 26)

18. In the light of the Committee's previous concluding observations (para. 18), please provide information on the current restrictions on freedom of movement imposed on Palestinians throughout the Occupied Palestinian Territory, comprising the West Bank, including East Jerusalem, and the Gaza Strip, and indicate whether the restrictions are in full conformity with the State party's obligations under the Covenant. Please comment on the concerns raised by the United Nations High Commissioner for Human Rights (A/HRC/34/36, para. 11) and the Secretary-General (A/67/372, paras. 8–11) who, while recognizing the legitimate security concerns of Israel, have expressed their concern about the violations perpetrated in the access-restricted areas, which run counter to the State party's obligations under international human rights law, including the right to life, and international standards on the use of force.

19. Taking into account the Committee's previous concluding observations (para. 12) and the information provided by the State party (CCPR/C/ISR/CO/4/Add.1), please comment on allegations that the blockade of the Gaza Strip, in place since 2007, has devastated the economy in that region, caused widespread destruction, left most people largely cut off from the outside world, with about 80 per cent of its population relying on international humanitarian aid to survive. Please provide information on measure taken to: (a) lift the blockade of the Gaza Strip, particularly with regard to unrestricted access for the provision of urgent humanitarian assistance and construction materials needed for civilian reconstruction efforts; (b) ensure that any measures limiting the freedom of movement of civilians and the transfer of goods from, into and within Gaza are consistent with its obligations under the Covenant; (c) ensure an expedited system for approval of permits for medical treatment for patients from Gaza, particularly women and children; and (d) facilitate and ensure an adequate supply of electricity in the Gaza Strip at all times.

Refugees and asylum seekers (arts. 7, 9, 10 and 13)

20. Taking into account the Committee's previous concluding observations (para. 20), please provide information on:

(a) Measures taken to ensure that all persons applying for international protection are given access to fair and efficient asylum procedures, protection against refoulement and an independent appeal mechanism with suspensive effect against negative decisions on asylum;

(b) The legal procedure to relocate Eritrean and Sudanese nationals;

(c) Measures taken to abolish the system of automatic detention of asylum seekers, including children, and to ensure that asylum seekers are detained as a measure of last resort only, for the shortest possible period and only after existing alternatives to detention have been duly considered, and that asylum seekers are able to challenge the lawfulness of their detention before a court;

(d) The initiative to reopen the Holot facility, which was previously used for enforced residence of "infiltrators", and on the possibility of issuing legislation excluding the jurisdiction of the Supreme Court on immigration issues;

(e) Allegations of poor medical care provided for asylum seekers, as they are not eligible for coverage by the National Health Insurance Law, which ensures comprehensive medical services for Israeli citizens and residents only.

Administration of juvenile justice (arts. 2, 7, 9, 10, 14 and 24)

21. In the light of the Committee's previous concluding observations (para. 19) and the follow-up report submitted by the State party (CCPR/C/ISR/CO/4/Add.1), please provide information on:

(a) Measures taken to ensure that children aged under 18 are detained as a measure of last resort only, for the shortest period of time, and the steps taken to seek alternatives to detention, including measures to collaborate with the Palestinian authorities to facilitate the use of alternatives to detention;

(b) Steps taken to overcome the constitutional budgetary difficulties described by the State party (CCPR/C/ISR/CO/4/Add.1, para. 92), which are hampering its ability to reduce the duration of detention of minors;

(c) Measures taken to ensure that children are treated with respect and dignity at all times, including steps to ensure that at the time of arrest, interrogation and detention children are treated in a way that is appropriate to their age, specific needs and vulnerability;

(d) Measures taken to ensure that detained children have effective access to an independent judicial review of the legality of their arrest and detention and are provided with adequate free and independent legal assistance immediately after their arrest and can contact their parents or close relatives.

Arbitrary or unlawful interference with private life and protection of family (arts. 2, 7, 12, 14, 17, 23, 26 and 27)

22. In the light of the Committee's previous recommendations (para. 9) and taking into account the information provided by the State party (CCPR/C/ISR/CO/4/Add.1), please provide information on:

(a) The alleged practice of collective punitive demolition of houses in the West Bank, including updated statistics on punitive demolitions since the Committee's previous recommendations, and on measures taken to eradicate this practice and the remedies available to victims;

(b) The measures taken to review the State party's housing policy and the issuance of construction permits, including by promoting Palestinian participation in the planning mechanisms, to ensure that municipal planning systems are not discriminatory;

(c) The measures taken to ensure that the authorities refrain from implementing evictions and demolition orders affecting Palestinians, including Bedouins, in the West Bank, and information on available legal measures for protection and due process guarantees against forced evictions and demolitions, including statistics in this respect;

(d) The measures taken regarding the large number of Bedouin towns and villages that remain unrecognized, and the difficulties faced by Bedouins living in both recognized and unrecognized towns and villages in acquiring building permits, therefore forcing them to live under the permanent threat of demolition of their homes;

(e) The Israeli court decision of 24 May 2018 to demolish the entire Palestinian Bedouin community of Khan al-Ahmar Ab al Helu in the West Bank, east of Jerusalem, which will probably affect 181 inhabitants and constitute an involuntary move that may amount to forcible transfer;

(f) The practice of demolishing schools in the West Bank, including planned measures to regularize schools that were built illegally, and concrete information on the plans to demolish a school in Khan al-Ahmar Ab al-Hilu, which is said to be among 44 Palestinian schools at risk of full or partial demolition.

23. With reference to the Committee's previous concluding observations (paras. 15 and 21), please provide information on measures taken to revoke the Citizenship and Entry into Israel Law (Temporary provision) and steps taken to facilitate family reunification of Israeli citizens with Palestinian spouses living in the West Bank, East Jerusalem and the Gaza Strip or with spouses living in several States classified by the State party as "enemy States", in compliance with articles 2, 23 and 26 of the Covenant.

Freedom of expression, assembly and association (arts. 19, 20, 21 and 22)

24. In the light of the Committee's previous concluding observations (para. 22), please provide information on:

(a) Information on the amendment to the Citizenship and Entry into Israel Law (Temporary provision) in March 2017, which prohibits the entry into Israel of any foreigner who makes a public call to boycott Israel or any area under its control, and on allegations that this provision can be used to restrict freedom of thought, opinion and expression;

(b) On the application of the Foreign Funding Law (5771-2001), which imposes mandatory disclosure of foreign funds received by any association or company, and on allegations that the State party has promoted measures curbing the financing and functioning of non-governmental organizations, including by denying tax benefits to organizations that "act against the interest of Israel";

(c) Allegations of acts of threats against and harassment, detention and arrests of human rights defenders and civil society organizations, particularly those working on international accountability for violations of human rights and humanitarian law;

(d) The public condemnation by senior officials of the Director of B'Tselem, following his briefing at the Security Council in October 2016, and the threat made by the ruling coalition to revoke his citizenship.

25. Please report on measures taken to guarantee the right to freedom of expression and describe the protection measures in place to ensure the safety of journalists in the course of their work and in their exercise of their freedom of expression. Please respond to reports of undue government pressure over and arrests of journalists critical of the Government or covering sensitive subjects, such as the case of a 33-year-old Palestinian journalist working for Palestinian television, who was hit in the face by a rubber-coated bullet fired from approximately 50 m while filming in Kobar village, and the case of Omar Nazzal, a Palestinian journalist and member of the Palestinian Journalists Syndicate, who was placed under administrative detention by the Israeli security forces in April 2016 and interrogated about his alleged political affiliation, his work as a journalist and his membership of the Syndicate. In addition, please comment on a bill, including with regard to its compatibility with the Covenant, the aim of which is to prohibit the photographing and documenting of Israel Defense Force troops, "with the intention of undermining the spirit" of the army, imposing a 5-year prison term for offenders and 10 years for those judged to have harmed State security.

Freedom of conscience and religious belief (arts. 2, 18 and 26)

26. Taking into account the Committee's previous concluding observations (paras. 19 and 23), please provide information on measures taken to ensure that the competent authorities dealing with conscientious objection applications are fully independent. In this regard, please provide information on the current composition of the Committee in charge of recommending to the competent authorities that it grant or reject application for exemption from compulsory military service for reasons of conscience. Please also clarify the legal conditions for punishing conscientious objectors and to what extent repeated punishment is inflicted on conscientious objectors for the act of refusing to perform military service.

Right to take part in the conduct of public affairs (arts. 2, 25, 26 and 27)

27. Please comment on reports that a number of policies have been enacted to restrict the political activities of Arab Knesset members and Arab political parties, in violation of article 25 of the Covenant. In this regard, please provide information on:

(a) The rationale for the amendment to the Election Law in 2014 raising the threshold required for political parties to enter the parliament from 2 to 3.25 per cent and its effect on the Arab political parties;

(b) The so-called Expulsion Law, enacted in July 2016, which allows a majority of 90 Knesset members to expel a Knesset member for the full period of the Knesset's remaining term on two grounds: incitement to racism; and support for armed struggle against Israel of an enemy State or a terrorist organization. Please also comment on the possibility that this law could be used to expel Arab Knesset members based solely on ideological and political reasons, in contradiction to article 25 of the Covenant;

(c) The expansion of the grounds for disqualifying candidates from Knesset election, adopted in 2017, allowing political parties and individual candidates to be disqualified from elections if their explicit or implicit goals and actions: negate the existence of Israel as a Jewish and democratic State; constitute incitement to racism; or

support an armed struggle against Israel by a hostile State or terrorist organization. Please comment on reports indicating that this amendment could be used to disqualify Arab political parties or Arab candidates due to its potentially broad interpretation.

Dissemination of information relating to the Covenant (art. 2)

28. In the light of the Committee's previous concluding observations (para. 24), please provide information on the arrangements made to disseminate the Covenant and the concluding observations, so as to increase awareness among the judiciary, legal and administrative authorities, including the customary institutions, law enforcement officials, lawyers and academics. Please explain how civil society and non-governmental organizations have been and will be involved in this process.